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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Uwe Briem  
App. No.: 09/194,286  
Filed: November 23, 1998  
Title: A METHOD FOR OPTIMIZING THE UTILIZATION OF CONNECTING  
SECTIONS IN SYSTEMS IN WHICH INFORMATION IS TRANSMITTED IN  
DATA PACKETS  
Art Unit: 2663  
Examiner: Ronald B. Abelson  
Docket No.: 112740-044

Commissioner for Patents  
Washington, DC 20231

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RESPONSE TO FINAL OFFICE ACTION

Sir:

The present remarks are in response to the Final Office action entered in the above identified application and mailed on July 9, 2002. The drawings were objected to because Fig. 2 was not designated as Prior Art. A proposed drawing correction is included with this response.

As in the previous Office Action, Claims 7, 9, 11, 13, and 15-16 stand rejected under 35 U.S.C. §103 as being unpatentable over the admitted prior art described in the specification in view of U.S. Patent No. 5,734,650 to Hayter et al. Furthermore, claims 8, 10, 12, and 14 were rejected over the admitted prior art disclosed in the specification in view of Hayter, and further in view of U.S. Patent No. 5,828,878 to Bennett. Again, Applicant respectfully traverses and requests that the Final Rejection be withdrawn based on the arguments that follow.

As the Examiner correctly points out, the prior art described in the Background Of The Invention section of the specification teaches providing a queue identifier which is stored in a packet header. The Examiner relies on Hayter for teaching a method and apparatus for transmitting data packets/ATM cells providing a first scheduling means for lower transmission rate data packets and providing a second scheduling method for upper transmission rate data. According to the Examiner it would have been obvious to one of ordinary skill in the art to combine the teaching of the admitted prior art with that of Hayter et al. to arrive at the invention claimed in independent claim 7 and the subsequent dependent claims. However, even if one of ordinary skill in the art would have been motivated to combine Hayter et al. with the prior art described in the Background Of The Invention of the present invention (a point not conceded by

the Applicant) the resulting combination does not disclose the invention as a whole as claimed in independent claim 7.

Claim 7 calls for, among other things, providing a first scheduling method by means of which connection parameters, which are representative of lower transmission rates of the data packets, are guaranteed during a transmission process; and providing a second scheduling method which may precede the first scheduling method depending on the queue identifier, wherein the connection parameters which are representative of upper transmission rates of the data packets are limited during the transmission process. Hayter et al. do not disclose a first scheduling method in which connection parameters representing lower transmission rates are guaranteed, and a second scheduling method in which connection parameters representing upper transmission rates are guaranteed, and wherein the second scheduling method may precede the first scheduling method depending on the queue identifier.

The distinguishing characteristics of the Hayter et al. apparatus are described at column 3 line 39 to column 4 line 6 of '650 patent. The Examiner argues that the statement "the ATM cells area not placed on the peak cell rate calendar 32 unless the above mentioned PCR threshold might be exceeded" teaches against the connection between the first and second calendars as being a "series relationship." This, however, is a misreading of the Hayter et al. specification, and is taken out of its original context. At column 3 line 39 Hayter et al. explicitly state that the two calendars 30 and 32 are placed in series. Further at column 3 line 44 Hayter et al. state: "... cells leaving the sustainable cell rate calendar 30 are checked against the table values for the peak cell rate intercell time and the last time a cell was transmitted. If the intercell time will be less with this particular cell being transmitted immediately, the cell must be scheduled on the peak cell rate calendar 32 at an intercell time. The sustainable cell rate [calendar] therefore guarantees that maximum ATM cell delay is not exceeded." Thus, the sustainable cell rate calendar 30 and the peak cell rate calendar 32 are in fact in series, and cells are placed on the peak cell rate calendar only after they have been transmitted from the sustainable cell rate calendar. There are no provisions whereby the peak cell rate calendar 32 (which implements a scheduling method in which connection parameters associated with the upper transmission are guaranteed) may precede the sustainable cell rate calendar 30 depending on the queue identifier. Thus, the combined teaching of Hayter et al. with the background art discussed by the Applicant does not teach or suggest the invention as claimed in independent claim 7.

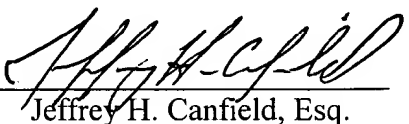
The Examiner also complains that the Applicant does not teach the significance of placing the first peak cell rate calendar ahead of the sustainable cell rate calendar. However, on page 4 lines 5-13 of Applicant's original specification Applicant states: "An advantageous feature of the invention is that a two-stage scheduling method may be carried out depending on an identifier which is contained in the packet header. In this case, the result of the first stage is used as an input signal for the second stage. This results in particular in the capability to control both a lower unit and an upper limit of the cell rate." In Applicant's view this functionality is not met by Hayer et al.'s ATM queuing and scheduling apparatus under all circumstances. A discussion of the failings of the prior art would be lengthy and involved. Therefore, it is a better subject for a telephone or in person interview. In order to convey this information and in hopes of avoiding a costly and unnecessary appeal, the Examiner is encouraged to call Applicant's Attorney, Jeffrey Canfield at (312) 807-4233, prior to acting on this Response.

Otherwise, Applicant respectfully submits that all of the claims as they presently stand all in condition for allowance. If any additional fees are required in connection with this response they may be charged to deposit account no. 02-1818.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY



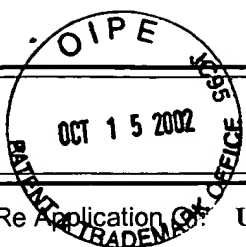
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**TRANSMITTAL LETTER**  
(General - Patent Pending)

Docket No. **112740-044**

AF  
2103

In Re Application of Uwe Briem

Serial No.  
09/194,286

Filing Date  
11/23/98

Examiner  
Ronald B. Abelson

Group Art Unit  
2663

Title: **A METHOD FOR OPTIMIZING THE UTILIZATION OF CONNECTING SECTIONS IN SYSTEMS IN WHICH INFORMATION IS TRANSMITTED IN DATA PACKETS**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

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Response to Office Action (**3** Pages); Return Receipt Postcard.

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in the above identified application.

- ☒ No additional fee is required.
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- ☒ The Assistant Commissioner is hereby authorized to charge and credit Deposit Account No. **02-1818** as described below. A duplicate copy of this sheet is enclosed.
- ☐ Charge the amount of \_\_\_\_\_
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.

  
Signature

Dated: **October 8, 2002**

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I certify that this document and fee is being deposited on Oct. 8, 2002 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

  
Signature of Person Mailing Correspondence

Jeffrey H. Canfield

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